

## UNITED STATES DISTRICT COURT

## DISTRICT OF NEVADA

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EMPLOYEE PAINTERS' TRUST,

Case No. 2:19-CV-00912-GMN-EJY

Plaintiff,

**ORDER**

v.

BRANDON S. CLIFTON, an individual; and  
KIMBERLY A. COMINSKY, an individual;

Defendants.

Pending before the Court is the Memorandum in Support of Fees and Costs Request filed by Employee Painters' Trust. ECF No. 67. The U.S. District Court for the District of Nevada has adopted the hybrid lodestar/multiplier approach, used by the Supreme Court in *Hensley v. Eckerhart*, 461 U.S. 424 (1983), as the proper method for determining the amount of attorney's fees due in most actions. The lodestar/multiplier approach has two parts. First, the court determines the lodestar amount by multiplying the number of hours reasonably expended on a motion by a reasonable hourly rate. *Hensley*, 461 U.S. at 433. To get to this calculation, the party seeking an award of fees must submit evidence supporting the hours worked and the rates claimed. *Id.* The district court will then, generally, exclude from the lodestar amount hours that are not reasonably expended because they are "excessive, redundant, or otherwise unnecessary." *Id.* at 434. Second, after calculating the total amount requested, the court may adjust the lodestar upward or downward using a "multiplier" based on factors not subsumed in the initial calculation. *Blum v. Stenson*, 465 U.S. 886, 898–901 (1984) (reversing upward multiplier based on factors subsumed in the lodestar determination); *Hensley*, 461 U.S. at 434 n.9 (noting that courts may look at "results obtained" and other factors but should consider that many of these factors are subsumed in the lodestar calculation).

**I. Discussion****A. The Hourly Rate Charged.**

The Memorandum filed by Plaintiff identifies the hourly rates charged in this matter were \$275 for partner level services and \$200 for associate level services. ECF No. 67 at 3. These rates

are below the rates often approved by the Court. *Doud v. Yellow Cab of Reno, Inc.*, Case No. 3:13-cv-00664-WGC, 2015 WL 5286996, at \*\*4-5 (D. Nev. Sept. 10, 2015); *Incorp Services, Inc. v. Nevada Corporate Services, Inc.*, Case No. 2:09-cv-1300-GMN-GWF, 2011 WL 3855462, at \*1 (D. Nev. Aug. 29, 2011); *Chemeon Surface Technology, LLC v. Metalast International, Inc.*, Case No. 3:15-cv-00294-MMD-VPC, 2017 WL 2434296, at \*1 (D. Nev. June 5, 2017) (collecting reasonable rate information for Nevada). Accordingly, the Court approves the hourly rates charged by counsel for Plaintiff.

B. The Amount of Time Spent.

The Court also finds the amount of time spent on this matter is reasonable. “District courts possess the necessary discretion to adjust the amounts awarded to address excessive and unnecessary effort expended in a manner not justified by the case.” *Ballen v. City of Redmond*, 466 F.3d 736, 746 (9th Cir. 2006); *American General Life Ins. Co. v. Futrell*, Case No. 2:11-cv-00977-PMP-CWH, 2012 WL 4962997, at \*4 (D. Nev. Oct. 16, 2012). Ultimately, it is always the moving party’s burden to establish that the fees sought are reasonable. *Soule v P.F. Chang’s China Bistro, Inc.*, Case No. 2:18-cv-02239-GMN-GWF, 2019 WL 3416667, at \*1 (D. Nev. July 26, 2019) (citation omitted). The amount of time spent for which reimbursement is requested in this case totals 12.3 hours. A review of the billing records demonstrate the time was spent engaged in reasonable, non-duplicative, and necessary work.

C. Costs

Plaintiff seeks costs in the amount of \$17.22, which is supported by an accounting of the same. ECF No. 67-2 at 9. The Court finds these amounts are reasonably incurred.

**II. Order**

Accordingly, IT IS HEREBY ORDERED that the Memorandum in Support of Fees and Costs Request (ECF No. 67) is GRANTED.

1 IT IS FURTHER ORDERED that Defendant Brandon Clifton **must** make payment to  
2 Plaintiff in the following amount within **30 days of the date of this Order** unless an objection is  
3 filed:

4 \$1,757.50 in attorney's fees; and

5 \$17.22 in costs.

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7 DATED this 31st day of October, 2022.

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10 ELAYNA J. YOUCHAK  
11 UNITED STATES MAGISTRATE JUDGE  
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